

COMPLAINT PROCEDURES
INFANTS AND TODDLERS
PART C

Statement of Jurisdiction: The Department of Elementary and Secondary Education, as a grantee under Part C of the Individuals with Disabilities Education Act (IDEA), must maintain procedures for receiving, investigating, and resolving complaints that statutes and/or regulations relating to Part C of IDEA have been violated by any public agency or private service provider receiving Part C funds. This process is administered through the Division of Special Education, and is known as the general complaint process. The process is required pursuant to: 1) Part C of IDEA, 34 CFR 303.510; and 2) the Education Department General Administrative Regulations (EDGAR), 34 CFR 76.780.

Parameters of the Process: The purpose of this process is to assure compliance by the Department of Elementary and Secondary Education with the provisions of the IDEA Part C. These requirements are reflected in the State Plan for compliance with the IDEA Part C and plans submitted by other state agencies.

Intake of Calls: Not all individuals contacting the Division of Special Education are filing a complaint. It will be important to distinguish between a request for information and an actual complaint. Complaints, as opposed to requests for information and as opposed to requests which simply involve an informal contact by staff on behalf of the caller, will be documented by electronic mail or phone log.

Content of a Complaint: If a complaint is filed, the assigned staff member should complete the information on the DESE internal complaint form. The complaint form must:

1. State facts describing an alleged violation of the IDEA Part C or federal statutes and regulations applying to programs operated pursuant to the IDEA Part C.
2. Cite the statute or regulation that is the basis for the complaint.
3. State the name, address, and phone number of the complainant.

Processing of Complaint Record: Upon receipt, the complaint shall be reviewed by the Assistant Director of Compliance, Part C, and necessary staff assigned. The complaint would also be entered into the complaint tracking process.

Investigation of the Complaint: The process of investigation may include: staffing the complaint, providing notice of the complaint, data collection, and on-site visits.

1. Staffing: Assigned staff will review the complaint to determine the parameters of the investigation. This would include determining whether an on-site visit will be necessary or whether the information may be obtained through the use of a data request. If an on-site visit is required, the details of the visit should be discussed with the Assistant Director, Part C.
2. Notice: Upon receipt of a complaint and completion of the staffing, notice shall be given to the agency or entity against which the complaint is filed. The notice shall include a statement of the elements of the complaint, a summary of the investigation process and, if possible, the details of any on-site visits, data requests, or phone interviews that are planned.

3. **Data Collection:** Data requests and phone interviews will be the primary methods of data collection in the complaint investigation. The data request should include documents relevant to the complaint and should be forwarded to a designated contact with the agency or entity as would notice identifying staff who will be interviewed. It is the purpose of the data requests and phone interviews to attempt, where possible, to resolve the complaint without an on-site visit. Additionally, persons who have filed the complaint are given the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.
4. **On-site Visits:** If the investigation requires an on-site visit, separate notice to the agency shall be given. This notice may be given by phone, but should preferably be in writing. The notice shall include a statement of the records to be made available, staff to be interviewed, and any need for access to school or agency facilities.

Investigation Time Lines: The Division of Special Education shall have, upon receipt of the completed complaint, sixty (60) calendar days to investigate and seek resolution of the complaint. Extension of this time limit may be granted by the Commissioner of Education, if exceptional circumstances exist with respect to the particular complaint. If such an extension is given, notice shall be given to the complainant and the grantee under investigation, with documentation of that notice to be maintained within the child complaint file.

Resolution of the Complaint: Resolution of a child complaint shall be through the issuance of a letter of findings by the Commissioner of Education, Department of Elementary and Secondary Education. These findings would include a review of the investigation results, including any information in an on-site investigation or from a data request and the reasons for the lead agency's final decision. Technical assistance is available to implement any corrective actions ordered. The basis for resolution may be any one of the following:

1. A statement of finding that the party is in compliance.
2. A statement of finding that the party is out of compliance, but that voluntary corrective action has been received to allow resolution of the issue.
3. A statement that the investigation has led to a finding that the party is out of compliance and ordering a specific corrective action to be completed by a certain date.
4. A statement that the investigation has led to a finding that the party is out of compliance, that voluntary corrective action has been refused by the party, and giving notice that the Division of Special Education will take administrative action.
5. A statement that the issue raised falls outside of the parameters of the complaint process or that it is the subject of an administrative resolution under Subpart E of the IDEA Part C.

Appeal Rights: The findings of the Commissioner of Education related to the complaint shall constitute a final decision of the Department of Elementary and Secondary Education and there is no appeal.

September 17, 2007